



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Heidi K. Abegg, Esq.
Webster, Chamberlain & Bean
1747 Pennsylvania Avenue, NW
Washington, DC 20006

NOV - 9 2009

RE: MUR 6227
Susan B. Anthony List, Inc. Candidate Fund
and Frank Cannon, in his official capacity as
treasurer

Dear Ms. Abegg:

On June 4, 2009, your clients, Susan B. Anthony List, Inc. Candidate Fund and Frank Cannon, in his official capacity as treasurer, notified the Federal Election Commission of the possibility of violations of certain sections of the Federal Election Campaign Act of 1971, as amended, ("the Act").

After reviewing your clients' submission, as well as additional information your clients provided, the Commission, on November 2, 2009, found reason to believe that Susan B. Anthony List, Inc. Candidate Fund and Frank Cannon, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(1), (2), and (4), provisions of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. We look forward to your response.

On behalf of the Commission,



Steven T. Walther
Chairman

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Susan B. Anthony List, Inc. Candidate Fund
and Frank Cannon,
in his official capacity as treasurer

MUR: 6227

I. GENERATION OF MATTER

This matter was generated by a *sua sponte* submission Susan B. Anthony List, Inc. Candidate Fund made to the Federal Election Commission ("the Commission").

II. FACTUAL AND LEGAL ANALYSIS

A. Background

Susan B. Anthony List, Inc. Candidate Fund ("the PAC") is a federal separate segregated fund of Susan B. Anthony List, Inc., an incorporated non-profit organization. During the relevant period (2005-2008), the PAC filed monthly disclosure reports with the Commission during election years and semi-annual reports during non-election years.

In the submission, the PAC disclosed that an internal audit of its 2006 and 2008 election cycle financial records showed that it overstated or understated its year-end cash balances for each calendar year from 2005 to 2008.¹ The PAC uncovered the accounting discrepancies as a result of a 2007 management change in its connected organization, Susan B. Anthony List, Inc. The PAC then hired an independent accounting firm, Lane & Company, to conduct a comprehensive internal audit of its financial accounts.

The cash balance discrepancies resulted from overstated or understated receipts and disbursements, as set forth in the chart below.

¹ Although the cash balance misstatements may have occurred prior to the 2006 election cycle, the Commission did not address possible violations stemming from prior misstated cash balances.

**Susan B. Anthony List, Inc. Candidate Fund
Reconciliation Summary of Calendar Years 2005 - 2008**

	FEC	Quickbooks	Merill Lynch	Annual Difference	Cumulative Difference	Errors By Category
1/1/2005 Balances	161,310.66	34,398.35	151.39		(126,762.94)	
2005:						
Cash Receipts	17,902.00	18,703.29	2.10	803.39		803.39
Cash Disbursements	<u>(36,208.18)</u>	<u>(41,271.48)</u>	<u>(163.00)</u>	<u>(5,215.30)</u>		5,215.30
12/31/2005 Balances	143,003.60	11,828.16	0.49	(4,411.91)		
2006:						
Cash Receipts	275,077.48	280,225.31		15,147.83		15,147.83
Cash Disbursements	<u>(328,137.00)</u>	<u>(280,235.49)</u>	<u>(0.49)</u>	<u>37,901.02</u>		37,901.02
12/31/2006 Balances	69,943.96	11,817.96	(0.00)	63,048.85		
2007:						
Cash Receipts	50,099.00	46,087.27		(4,011.73)		4,011.73
Cash Disbursements	<u>(39,548.29)</u>	<u>(52,059.77)</u>		<u>(12,511.48)</u>		12,511.48
12/31/2007 Balances	100,494.69	5,845.48		(16,523.21)		
2008:						
Cash Receipts	640,481.60	633,616.13		(6,865.47)		6,865.47
Cash Disbursements	<u>(608,924.94)</u>	<u>(608,930.64)</u>		<u>(5.70)</u>		5.70
12/31/2008 Balances	132,051.35	30,530.97		(6,871.17)		
Cumulative Differences for 2005 - 2008					25,242.56	
Adjustment Needed to FEC Cash Report to Reflect Correct 12/31/08 Balance					<u>(101,520.38)</u>	
Total Errors by Category, Gross						<u>82,461.92</u>

As shown in the chart above, the PAC overstated its 2005 beginning cash on hand by \$126,762.94 in its 2005 Mid-Year Report. Additionally, the PAC's 2005 annual receipts were understated by \$803.39 and its disbursements by \$5,215.30. The 2006 annual receipts were understated by \$15,147.83, and the disbursements were overstated by \$37,901.02.² The 2007 annual receipts were overstated by \$4,011.73, and the disbursements were understated by \$12,511.48. Finally, the PAC's 2008 annual receipts were overstated by \$6,865.47, and its

² The PAC asserts that the \$15,147.83 discrepancy may have been due to duplicative receipt entries by the Commission's reporting software.

disbursements were understated by \$5.70. The PAC determined that the financial misstatements resulted in discrepancies totaling \$82,461.92 during the 2005-2008 period.

The internal audit showed that the misstated receipts and disbursements resulted from improper handling of credit card transactions, inconsistent internal accounting methods, improper treatment of coordinated expenditures, and poor recordkeeping.³ Specifically, the PAC disclosed to the Commission the gross amounts of credit card contributions, while the PAC's internal accounts reflected net amounts (less credit card companies' processing fees). Also, the vendor(s) that processed the credit card contributions forwarded them as a batch so that individual donations could not easily be matched to their donors. In addition, the PAC's accounting vendor kept the PAC's books in a different accounting system than was used for the disclosure reports (accrual vs. cash basis) and failed to reconcile the figures in preparing the reports. The divergent accounting conventions caused the PAC to misreport information. Finally, the PAC reported both the value of in-kind contributions from coordinated fundraising expenses and the actual expenses (printing, mailing, etc.) as cash disbursements.

The PAC represents that it took appropriate corrective measures and improved its internal controls promptly after discovering the discrepancies. For example, prior to filing the June 2009 submission (but after completing the internal audit), the PAC amended all of its 2008 monthly disclosure reports and sought the assistance of the Commission's Reports Analysis Division ("RAD") to enhance their compliance efforts. Based on RAD's advice and the internal audit, the PAC determined that a comprehensive cash adjustment would reconcile the cash balance discrepancies, in lieu of amending additional individual reports. The PAC has since disclosed a

³ The internal audit determined that the discrepancies did not involve misappropriated funds.

\$99,484 comprehensive cash adjustment in its 2009 Mid-Year Report that was filed on July 30, 2009.⁴ The PAC reports that it has improved its internal controls by using a new credit card processor and by hiring a full-time bookkeeper to routinely reconcile the PAC's disclosure reports with its bank statements and accounting records.

B. Discussion

Each treasurer of a political committee is required to file reports of receipts and disbursements in accordance with 2 U.S.C. § 434(a). Each report shall accurately disclose the committee's cash on hand, the total amount of receipts for the reporting period and for the calendar year, and the total amount of disbursements for the reporting period and for the calendar year. 2 U.S.C. § 434(b)(1), (2), and (4).

The submission shows that the PAC misstated its financial activity by overstating its 2005 beginning cash on hand by \$126,762.94, and overstating or understating a total of \$82,461.92 in receipts and disbursements on its 2006 and 2008 election cycle disclosure reports. Therefore, there is reason to believe Susan B. Anthony List, Inc. Candidate Fund and Frank Cannon, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(1), (2), and (4).

⁴ The adjustment amount reflects a net cash balance discrepancy for the 2005-2008 period based on the PAC's conclusion (as shown in the prior chart) that throughout the period it understated receipts by approximately \$5,000, and overstated disbursements by approximately \$20,000, reducing the beginning \$126,762.94 total cash balance overstatement to \$101,520.38. That amount was further reduced by an additional \$2,035.70 to correct residual errors through the July 30, 2009 filing date.

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